

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN L. BENNETT.

Petitioner,

V.

STATE OF WASHINGTON

Respondent.

Case No. C09-5027BHS/JKA

**ORDER TO AMEND
OR CHANGE CASE
CAPTION**

This habeas corpus petition has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636 (b)(1)(B) and Local Magistrate Judges Rules MJR 3 and MJR 4. Petitioner seeks federal habeas corpus relief pursuant to 28 U.S.C. § 2254. (Dkt. # 1).

The court has reviewed the petition prior to service. Mr. Bennett names the State of Washington as the only respondent. Mr. Bennett is in custody and should have named the superintendent of the facility where he is currently housed.

28 U.S.C. § 2243 indicates that writs are to be directed “to the person having custody of the person detained.” This person typically is the superintendent of the facility in which the petitioner is incarcerated. Failure to name the petitioner's custodian deprives federal courts of personal jurisdiction. *Stanley v. California Supreme Court*, 21 F.3d 359, 360 (9th Cir. 1994).

ORDER

1 Petitioner is ordered to file an amended petition naming the proper respondent, or file a
2 motion to change the case caption. The new petition or motion must be filed on or before **March**
3 **20, 2009** or the court will recommend dismissal of this petition on jurisdictional grounds.

4 The clerk is ordered to send copies of this order to the petitioner.
5

6 DATED this 17 day of February, 2009.
7
8

9 /S/ J. Kelley Arnold
10 J. Kelley Arnold
11 United States Magistrate Judge
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28 ORDER